



UNITED STATES BANKRUPTCY COURT
Northern District of California
U.S. Courthouse and Federal Building
280 South First Street Room 3035
San Jose, California 95113-3099
(408) 535-5118

FILED

JUN 17 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

FILED

JUN 17 2014

United States Bankruptcy Court
San Jose, California

Edward Emmons
Clerk of Court

Richard W. Wieking, Clerk
United States District Court
280 South First Street
San Jose, CA 95113

Re: Case Name: Booker Theodore Wade, Jr.
Case Number: 13-50376-SLJ
Bankruptcy Judge Name: Stephen L. Johnson
District Court #:

CV 14.02795 LHK

Dear Mr. Wieking:

[] Enclosed please find the Notice of Appeal, certified copy of the docket and order being appealed and related papers from BAP and designated items to form the record on appeal for assignment to a district court judge.

[X] Enclosed please find a conformed copy of the Notice of Appeal, Election to District Court document, as well as a certified copy of the docket and order being appealed for assignment to a district court judge.

[] Enclosed please find a conformed copy of the Notice of Appeal, Election to District Court document, a certified copy of the docket, the order being appealed, as well as Motion for Leave to Appeal / *Non-Final Order/Judgment* for assignment to a district court judge.

[] Enclosed please find the record of designated items and a certificate of record for an appeal that has been previously sent to the district court.

[X] Enclosed please find the Appellant's Designation of Record.

[] Enclosed please find the Appellee's Designation of Record.

[X] Enclosed please find the Statement of Issues.

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422

☐ Enclosed please find the Motion for Leave to Appeal / *Non-Final Order/Judgment*.

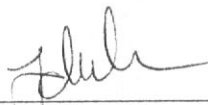
☐ Other.

Please acknowledge receipt of this appeal by stamping the district court case number on a copy of this letter and return it to Kristine Hang Du .

Edward Emmons, Clerk
United States Bankruptcy Court

Dated: June 17, 2014

By:



Kristine Hang Du, Deputy Clerk

Entered on Docket

June 12, 2014

EDWARD J. EMMONS, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA



The following constitutes
the order of the court. Signed June 12, 2014

Stephen L. Johnson

Stephen L. Johnson
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA

In re

BOOKER T. WADE, JR.,

Debtor

Case No.: 13-50376 SLJ

Chapter 11

**ORDER DENYING MOTION TO COMPEL
CUSTODIAN TO TURNOVER PROPERTY OF THE ESTATE**

Debtor filed a Motion to Compel Custodian to Turnover Property of the Estate, on May 6, 2014, seeking an order directing the law firm Rossi Hamerslough Reischl & Chuck to turnover certain cash proceeds from the sale of real property to Debtor's chapter 11 estate. RHRC opposed the order, as did an interested party known as Campeau Goodsell Smith.

For the reasons stated on the record at the hearing conducted on June 11, 2014, the court DENIES the motion.

ORDER

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UNITED STATES BANKRUPTCY COURT
for the Northern District of California

1 IT IS SO ORDERED.

2 *** END OF ORDER***

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ORDER

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COURT SERVICE LIST

ECF Parties by Electronic Means Only

UNITED STATES BANKRUPTCY COURT
for the Northern District of California

ORDER

3

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FILED

JUN 16 2014

IN RE

Case No. 13-50376 SLJ United States Bankruptcy Court
San Jose, California

Chapter 11

BOOKER THEODORE WADE JR.

DEBTOR

605 Forest Avenue
Palo Alto, CA 94301
SS # 3897

NOTICE OF APPEAL

Booker T. Wade, Jr., Debtor and Debtor in Possession herein, hereby appeals under 28 U.S.C. 158(a) and Bankruptcy Rule 8001(a) of the Rules of Bankruptcy Procedure from the order of the bankruptcy judge entered on June 11, 2014, captioned "Order Denying Motion to Compel Custodian to Turnover Property of the Estate." This notice of appeal is timely as it is made within 14 days of entry of the order appealed from pursuant to Rule 8002 of the Rules of Bankruptcy Procedure.

The names of the parties to the order appealed from and the names, addresses and telephone numbers of their respective putative attorneys are as follows:

Party

Arlene Stevens

Arlene Stevens [Pro Se]
P O Box 51310
Palo Alto, CA 94303
[No telephone number]

Arlene Stevens

David Hamerslough
Rossi Hamerslough Reisch & Chuck
1980 The Alameda Suite 200
San Jose, CA 95126
(408) 261 4252

1	Hoge Fenton Jones & Appel Inc.	Stephanie Oats Hoge Fenton Jones & Appel Inc. 60 South Market Street #1400 San Jose, CA _____ (408) 287-9501
2		
3		
4	The Mlnarik Law Group Inc	Mlnarik Law Group Inc. 2930 Bowers Avenue Santa Clara, CA 95051 (408) 919 0088
5		
6		
7	Rossi Hamerslough Reischl & Chuck	Wendy Smith Binder & Malter 2775 Park Avenue Santa Clara, CA 95050 (408) 295 1700
8		
9		
10	Campueau Goodsell Smith	William Healy Campeau Goodsell Smith 400 North First Street #100 San Jose, CA (408) 295 9555
11		
12		
13		
14	Forest Villa Homeowners Association	Austin Nagel Esq. Law Offices of Austin Nagel 111 Deerwood Dr. San Ramon, CA 94582 (925) 855 8080
15		
16		
17	Wells Fargo Bank	Christopher McDermott Casey O'Connell Pite Duncan, LLP 4375 Jutland Drive, Suite200 PO Box 17933 San Diego, CA 92177-0933 (858) 750-7600
18		
19		
20		
21		
22	U.S. Department of Education	General Counsel U.S. Department of Education 400 Maryland Ave SW Washington, D.C. 20202 (202) 401-6000
23		
24		
25	Internal Revenue Service	Internal Revenue Service (not represented) P O Box 7346 Philadelphia, PA 19101-7346 (800) 829-1040
26		
27		
28		

1 JAMS Inc.

JAMS Inc. (not represented)
160 W Santa Clara St
San Jose, CA 945113
(408) 288-2240

2
3 Discover Bank

Discover Bank (not represented)
DB Servicing Corp
P O Box 3024
New Albany, OH 43054-3025
(224) 405 0900

4
5
6
7 LVNV Funding LLC

LVNV Funding LLC (not represented)
P O Box 10587
Greenville, SC 29603-058
[Phone number not available]

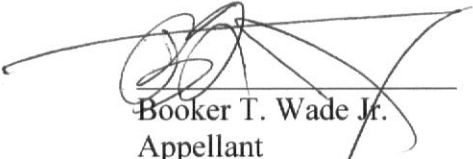
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9
10 Calvary Portfolio Services LLC

Calvary Portfolio Services LLC
500 Summit Lake Drive Suite 400
Valhalla, NY 10595
(800) 501 0909

11
12
13 Miller Starr Regalia LLC

Miller Starr Regalia LLC (not represented)
435 Tasso Street Suite 315
Palo Alto, CA 94301
(925) 935-9400

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18 June 16, 2014

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Booker T. Wade Jr.
Appellant
605 Forest Avenue
Palo Alto, CA 94301
415 378 6250
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Booker T. Wade Jr.
605 Forest Avenue
Palo Alto, CA 94301
415 378 6250

FILED

JUN 16 2014

United States Bankruptcy Court
San Jose, California

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

IN RE

Case No. 13-50376 SLJ

BOOKER THEODORE WADE JR.

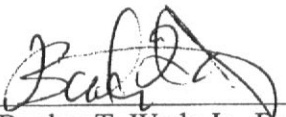
Chapter 11

DEBTOR

NOTICE OF ELECTION TO HAVE UNITED STATES DISTRICT COURT HEAR APPEAL

Booker T. Wade, Jr., Debtor and Debtor in Possession herein, pursuant to 28 U.S.C.
158(c)(1)(A) and Fed. R. Bankr. P. 8001(e), hereby elects to have the United States District Court
for the Northern District of California hear this appeal.

June 16, 2014


Booker T. Wade Jr., Debtor

Proof of Service

I, Fan Wen, certify that I am over the age of 18 and that my business address is at 1296 Kifer Road, Suite 606, Sunnyvale, CA 94086. On or before the date shown below, I deposited in the U.S. Mail, first class postage prepaid, copies of the foregoing pleading and addressed to the following:

David Hamerslough
Rossi Hamerslough Reisch & Chuck
1980 The Alameda Suite 200
San Jose, CA 95126

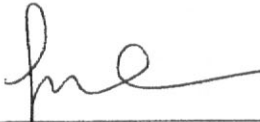
Stephanie Oaks
Hoge Fenton Jones & Appel Inc.
60 South Market Street #1400
San Jose, CA 95113

Mlnarik Law Group Inc.
2930 Bowers Avenue
Santa Clara, CA 95051

William Healy
Campeau Goodsell Smith
400 North First Street #100
San Jose, CA

Christopher McDermot
Casey O'Connell
Pite Duncan, LLP
4375 Jutland Drive, Suite200
PO Box 17933
San Diego, CA 92177-0933

June 16, 2014



Fan Wen

FILED

JUN 16 2014

Booker T. Wade Jr.
605 Forest Avenue
Palo Alto, CA 94301
415 378 6250

United States Bankruptcy Court
San Jose, California

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

In re**Case No. 13-50376 SLJ**

Chapter 11

BOOKER T. WADE JR.**DEBTOR**

**DESIGNATION OF RECORD AND
STATEMENT OF ISSUES**

Booker T. Wade Jr., Appellant, having filed a notice of appeal from the order of the bankruptcy court, entered May 7, 2014, which denied approval of Appellant's First Amended Proposed Disclosure Statement and Plan of Reorganization, hereby designates the following for inclusion in the record on appeal and sets forth a statement of issues to be presented on appeal.

Designation of Contents of Record

1. Docket - History;
2. Claims Register;
3. Schedule C, Property Claimed As Exempt, Voluntary Petition, filed on February 20, 2013;
4. Motion to Reject Executory Contract, filed by Appellant on June 6, 2014;
5. Objection to Motion to Reject Executory Contract filed by David Hamerslough on July 10, 2014;
6. Opposition to Motion to Reject Executory Contract, filed by Campeau Goodsell & Smith on July 10, 2014;

- 1 7. Motion for Relief From Stay to Seek Judgment in State Court and for Related Relief, filed
2 on behalf of Arlene Stevens on July 9, 2013, seeking reference to state court to resolve state
3 issues presented;
- 4 8. Opposition to Motion For Relief from Stay filed by Appellant on July 22, 2014;
- 5 9. Order: (1) Denying Motion to Reject Executory Contract and (2) Granting Stay Relief,
6 entered on September 5, 2013, providing reference to the Santa Clara County California
7 Superior Court;
- 8 10. Debtor's Proposed Combined Plan of Reorganization and Disclosure Statement, filed on
9 March 7, 2014;
- 10 11. Opposition to Debtor's Proposed Combined Plan of Reorganization and Disclosure
11 Statement, filed by David Hamerslough on March 27, 2014;
- 12 12. Opposition to Debtor's Proposed Combined Plan of Reorganization and Disclosure
13 Statement, filed by William Healy on March 24, 2014;
- 14 13. Opposition to Debtor's Proposed Combined Plan of Reorganization and Disclosure
15 Statement, filed by Hoge Fenton Jones & Appel Inc. on March 26, 2014;
- 16 14. Opposition to Debtor's Proposed Combined Plan of Reorganization and Disclosure
17 Statement, filed by the United States Trustee on March 24, 2014;
- 18 15. Official transcript of the hearing before the bankruptcy court on April 3, 2014 on Debtor's
19 Proposed Combined Plan of Reorganization and Disclosure Statement;
- 20 16. Debtor's Ex Parte Motion to Strike Appearances of Counsel filed by
21 Appellant on April 14, 2014;
- 22 17. Objection to Debtor's Ex Parte Motion to Strike Appearances of Counsel filed by David
23 Hamerslough on April 17, 2014;
- 24 18. Objection to Debtor's Ex Parte Motion to Strike Appearances of Counsel filed by William
25 Healy on April 17, 2014;
- 26 19. Opposition to Debtor's Motion to Strike Appearances filed by Healy
- 27 20. Opposition to Debtor's Motion to Strike Appearance filed by Hamerslough
- 28 21. Debtor's First Amended Proposed Combined Plan of Reorganization and Disclosure
Statement filed on April 22, 2014;
22. Opposition to Debtor's First Amended Proposed Combined Plan of Reorganization and
Disclosure Statement filed on April 28, 2014 by David Hamerslough;

23. Opposition to Debtor's First Amended Proposed Combined Plan of Reorganization and Disclosure Statement filed on April 28, 2014 by Hoge Fenton Jones & Appel Inc.;
24. U.S. Trustee's Objections to Debtor's Combined Plan of Reorganization and Disclosure Statement (4/22/2014), filed on April 25, 2014;
25. Debtor's Ex Parte Motion to Enlarge The Time to File Amended Plan of Reorganization and Disclosure Statement, filed April 14, 2014;
26. Order Denying Approval of Debtor's First Amended Proposed Disclosure Statement and Reorganization Plan as Patently Unconfirmable entered on May 7, 2014;
27. Official Transcript of the hearing before the bankruptcy court on April 3, 2014, on Debtor's First Amended Proposed Combined Disclosure Statement and Plan of Reorganization;
28. Notice of Appeal to the United States District Court for the Northern District of California from the order of the bankruptcy court, filed May 20, 2014, which denied approval of Debtor's First Amended Combined DS and Reo Plan
29. Motion to Compel Custodian to Turnover Property, filed on May 6, 2014;
30. Opposition to Motion to Compel Custodian to Turnover Property, filed on May 28, 2014, by David Hamerslough;
31. Motion to Withdraw Reference from State Court filed by Appellant on May 28, 2014;
32. Opposition to Motion to Withdraw Reference filed by William Healy on June 3, 2014;
33. Chapter 11 Reorganization Petition of Appellant filed on January 11 2014;
34. United States Trustee Motion to Convert or Dismiss Chapter 11 Case.
35. Order to Show Cause Re Dismissal or Conversion entered on June 10, 2014;
36. Order Denying Motion to Compel Custodian to Turnover Property of the Estate, entered on June 12, 2014;
37. Official Transcript of Hearing on Motion to Compel Custodian to Turnover Property of the Estate, held on June 11, 2014;
38. Ex Parte Motion to Void State Court Judgment Order, filed on June 16, 2014;

Issue Presented

Did the Bankruptcy Judge err in denying debtor's Motion to Compel Custodian to Turnover Property of the Estate?

June 16, 2014


Appellant

Proof of Service

I, Fan Wen, certify that I am over the age of 18 and that my business address is at 1296 Kifer Road, Suite 606, Sunnyvale, CA 94086. On or before the date shown below, I deposited in the U.S. Mail, first class postage prepaid, copies of the foregoing pleading and addressed to the following:

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Rossi Hamerslough Reisch & Chuck
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San Jose, CA 95126

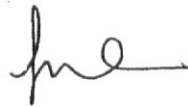
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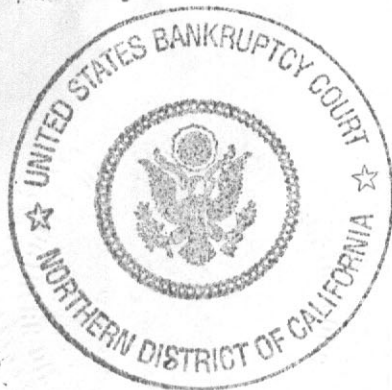
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400 North First Street #100
San Jose, CA

Christopher McDermot
Casey O'Connell
Pite Duncan, LLP
4375 Jutland Drive, Suite 200
PO Box 17933
San Diego, CA 92177-0933

June 16, 2014



Fan Wen



DebtEd, REOPENED, APPEAL, Filing Fee Due

**U.S. Bankruptcy Court
Northern District of California (San Jose)
Bankruptcy Petition #: 13-50376
Internal Use Only**

Assigned to: Judge Stephen L. Johnson
Chapter 11
Voluntary
Asset

Date filed: 01/22/2013
Date reopened: 02/21/2013
341 meeting: 02/27/2013
Deadline for filing claims: 05/28/2013
Deadline for objecting to discharge: 04/29/2013

Debtor

Booker Theodore Wade, Jr.
605 Forest Avenue
Palo Alto, CA 94301
SANTA CLARA-CA
SSN / ITIN: 411-66-3897

represented by **Booker Theodore Wade, Jr.**

PRO SE
UNITED STATES BANKRUPTCY COURT
Northern District of California
I certify that this is a true, correct and full copy
of the original document on file in my custody.
Dated 6/17/2014
by [Signature]
Deputy Clerk

U.S. Trustee

Office of the U.S. Trustee / SJ
U.S. Federal Bldg.
280 S 1st St. #268
San Jose, CA 95113-3004
()

represented by **John S. Wesolowski**

Office of the United States Trustee
280 S 1st St. #268
San Jose, CA 95113-0002
(408)535-5525
Email: john.wesolowski@usdoj.gov

Filing Date	#	Docket Text
01/22/2013	<u>1</u>	Chapter 11 Voluntary Petition, Fee Amount \$303.25, Filed by Booker Theodore Wade Jr.. Order Meeting of Creditors due by 1/29/2013. Incomplete Filings due by 2/5/2013. (lub). CORRECTIVE ENTRY: COURT REMOVED SECTION 521 DEADLINE FROM DOCKET TEXT. Modified on 1/23/2013 (kd). (Entered: 01/22/2013)
01/22/2013		First Meeting of Creditors with 341(a) meeting to be held on 02/27/2013 at 09:30 AM at San Jose Room 268. Last Day to Determine Dischargeability of Certain Debts due by 04/29/2013. Proof of Claim due by 05/28/2013. (lub) (Entered: 01/22/2013)
01/22/2013	<u>2</u>	Statement of Social Security Number. Filed by Debtor Booker Theodore Wade Jr. (lub) (Entered: 01/22/2013)

		on the record. (tb) (Entered: 06/13/2014)
06/12/2014	● <u>151</u>	Order **Denying** Objection (RE: related document(s) <u>123</u> Objection filed by Debtor Booker Theodore Wade). (kd) (Entered: 06/12/2014)
06/12/2014	● <u>152</u>	Order **Denying** Motion To Compel (Related Doc # <u>126</u>) (kd) (Entered: 06/12/2014)
06/12/2014	● <u>155</u>	BNC Certificate of Mailing -Motion to Convert or Dismiss . (RE: related document(s) <u>149</u> Hearing Set). Notice Date 06/12/2014. (Admin.) (Entered: 06/12/2014)
06/13/2014	● <u>156</u>	BNC Certificate of Mailing (RE: related document(s) <u>150</u> Order to Show Cause for Dismissal). Notice Date 06/13/2014. (Admin.) (Entered: 06/13/2014)
06/16/2014	● <u>157</u>	Order Vacating Hearing On Motion To Withdraw Reference (RE: related document(s) <u>139</u> Motion for Withdrawal of Reference filed by Debtor Booker Theodore Wade). (kd) (Entered: 06/16/2014)
06/16/2014		(private) Hearing terminated per signed order on 6/16/2014. (kd) (Entered: 06/16/2014)
06/16/2014	● <u>158</u>	Order To Continue Hearing (RE: related document(s) <u>150</u> Order to Show Cause for Dismissal). 7/9/2014 at 02:00 PM San Jose Courtroom 3099 - Johnson for <u>150</u> , (kd) (Entered: 06/16/2014)
06/16/2014	●	Receipt of Appeal Filing Fee. Amount 298.00 from Booker Therodore Wade Jr. Receipt Number 50091967. (admin) (Entered: 06/16/2014)
06/16/2014	● <u>159</u>	Notice of Appeal to District Court , Fee Amount \$ 298.00. (RE: related document(s) <u>152</u> Order on Motion to Compel). Appellant Designation due by 6/30/2014. Transmission to District Court due by 7/16/2014. Filed by Debtor Booker Theodore Wade Jr. (kd) (Entered: 06/17/2014)
06/16/2014	● <u>160</u>	Statement of Election to District Court, (RE: related document(s) <u>159</u> Notice of Appeal filed by Debtor Booker Theodore Wade). Filed by Debtor Booker Theodore Wade Jr. (kd) (Entered: 06/17/2014)
06/16/2014	● <u>161</u>	Appellant Designation of Contents For Inclusion in Record On

		Appeal , Statement of Issues on Appeal, Certificate of Service (RE: related document(s) <u>159</u> Notice of Appeal filed by Debtor Booker Theodore Wade). Filed by Debtor Booker Theodore Wade Jr. (kd) (Entered: 06/17/2014)
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